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April 23, 2015

Frankie Hampton DN: E-US, DHUS, Government, Out-Frankie Hampton Dute: 2015.04.24 07:04:12-04'00'

Jeff S. Jordan Office of the General Counsel Federal Election Commission 999 E Street N.W. Washington, D.C. 20462

Re: MUR 6916

Dear Mr. Jordan,

This response is filed on behalf of our clients, listed in attachment A, to the above-referenced complaint. This complaint should be dismissed and no action should be taken in regards to the Respondents. None of the allegations in the complaint, even if taken as true, implicate any impermissible conduct by the Respondents and the complaint fails to identify a single fact upon which the Federal Election Commission ("Commission") could conclude that there is reason to believe the Respondents violated the Federal Election Campaign Act of 1971 (the "Act") or Commission regulations.

The complaint fails to meet the requirements for a proper complaint. Commission regulations require a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction. 11 C.F.R. 111.4(d)(3). "Unwarranted legal conclusions from asserted facts... or mere speculation... will not be accepted as true." MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee, Inc.), Statement of Reasons of Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith and Scott E. Thomas at 2. This complaint fails to allege any specific facts that describe a violation of the Act or Commission regulations by the Respondents.

The complaint alleges that "Respondents have created for-profit businesses" that: (1) provided federal candidates and committees with data and services at below market rates; (2) that Catalist and NGP VAN act as a common vendor allowing federal candidates and committees to share data with soft money groups making independent expenditures; and (3) at-least one of the for-profit companies was established, maintained and/or controlled by the Democratic National Committee. The complaint fails to allege any conduct by any state party Respondent that could lead to a violation of the act. Even if the complaint properly alleged violations by the Respondents, the allegations are wholly without merit.

The complaint names the Respondents, and several hundred other campaign committees, yet it fails to provide a single fact to support an allegation that the Respondents violated the Act or Commission regulations. The Respondents have entered into separate contractual relationships for Catalist's services at fair market value. The contracts were all negotiated at arm's length and Respondents paid a substantial amount for these services. For example, in 2014, one Respondent was required to pay an annual fee of \$20,000 for access to Catalist's services. This is clearly a substantial amount of money and represents a market value transaction. Further, the Respondents retain ownership of their own data and information in Catalist and the complaint fails to allege actual coordination or provide any evidence to support a conclusion that any coordination occurred through Respondents' contracts with Catalist. The mere fact that Respondents share a common vendor with independent expenditure groups is not sufficient evidence of coordination.

Respondents contract with NGP VAN for compliance and fundraising management software and these software licenses are purchased at fair market value. The complaint fails to provide any evidence to the contrary in support its baseless allegations. Furthermore, the Complaint fails to identify a single fact or legal analysis that supports an allegation that Respondents' use of NGP VAN's software for compliance and fundraising management purposes constitutes a violation of the Act or Commission regulations.

The complaint fails to allege facts that even if true, would constitute a violation of the Act or Commission regulations as it pertains to the Respondents. Therefore, the complaint should be summarily dismissed.

Respectfully submitted,

Neil Reiff,
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Joseph Birkenstock
Dara Lindenbaum
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Attachment A

Democratic Executive Committee of Florida; Treasurer, Judy Mount
Democratic Party of New Mexico; Treasurer, Kristine Jacobus
Maine Democratic State Committee; Treasurer, Betty Johnson
Mississippi Democratic Party PAC; Treasurer, Ryan Brown
Ohio Democratic Party; Treasurer, Fran Alberty
Tennessee Democratic Party; Treasurer, Wade Munday
Texas Democratic Party; Treasurer, Gilberto Hinojosa
Vermont State Democratic Federal Campaign Committee; Treasurer, Tim Briglin